87-278

Supreme Court, U.S.
FILED
SEP 16 1987
JOSEPH F. SPANIOL, JR.
CLERK

In The
Supreme Court of the United States

October Term, 1987

THEODORE RAYNOVICH,

Petitioner,

v.

ERNEST GREGG, JR.,
JOHN G. BRASKEY, and
ELWOOD L. GROVES III.

Respondents

Board of County Commissioners

ON PETITION FOR WRIT OF CERTIORARI TO THE
COURT OF APPEALS OF THE STATE OF MARYLAND

REPLY BRIEF OF PETITIONER

Theodore Raynovich, pro se
R.F.D. 1, Box 227
Oakland, Maryland 21550
(301) 334-3434

QUESTIONS PRESENTED FOR REVIEW

I. Whether the Board of County Commissioners can, in conspiracy take private property without due process, in violation of the laws and statutes of Maryland, and the Constitutional Laws of Maryland, and the Fifth and Fourteenth Amendments to the Constitution of The United States of America.

II. Whether the lower Courts of Maryland can rubber stamp Constitutional violations merely because the wrong doers are rich and politically affluent to force public officials into conspiracy to deny private citizens of equal protection under the Law.

STATEMENT OF PARTIES TO THESE PROCEEDINGS

The Petitioner, Theodore Raynovich, at all relevant times, was the plaintiff and appellant below.

Commissioner Ernest Gregg, Jr., Commissioner John G. Braskey and Commissioner Elwood L. Groves III, constituting the Board of County Commissioners of Garrett County, Maryland, were the defendants and appellees in the proceeding below. All are on the front cover.

TABLE OF CONTENTS

Page

QUESTIONS PRESENTED FOR REVIEW.....i

STATEMENT OF PARTIES TO
THESE PROCEEDINGS.....ii

TABLE OF CONTENTS.....iii

TABLE OF AUTHORITIES.....iv

ARGUMENT.....10

CONCLUSION.....18

TABLE OF AUTHORITIES

Page

Antieau's Local Government Law (1987)
Volume 4 Section 37.06.....17

STATUTES

Section 2-114 of the Real Property
Article of the Annotated Code of
Maryland.....13

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1987

THEODORE RAYNOVICH,
Petitioner,

v.

ERNEST GREGG, JR.,
JOHN G. BRASKEY, and
ELWOOD L. GROVES III,
Respondents.

Petition for a Writ of Certiorari
to the Court of Appeals of
The State of Maryland

REPLY BRIEF FOR PETITIONER

Review of the decision of the Maryland Court of Appeals is required because it disregards the explicit Supremacy of The Constitution of The United States, by

ignoring pleadings in regard to Constitutional violations. Reply to Respondents' opposition brief: On their cover: Its Groves III., Is No UNITED STATES COURT OF APPEALS OF MARYLAND, Page-i- I. Glen Cove Road could never be created by prescription, due to the facts, all parties that use this road have deeded access, General Public have no reason to use it, they never did use it and have no reason to use it, and the County has no reason to use it.

II. Elwood L. Groves III. (3rd) This private roadway is a cul de sac as verified by County Road Sign "NO OUTLET" This private road cannot be a public " THOROUGHFARE" by any Legal means what so ever, if we are to abide by the Constitution and Its Amendments.

Mr. Stover's letter of Feb. 22,1984, in petitioner's Brief Appendix E. at 20a.: "I have examined the records in the office of the Clerk of the Circuit Court for Garrett County, Maryland, and find the John Luke Road extending from the Glendale County Road to the property of Merle M. Gindlesberger is a private road as set forth in your letter of February 2, 1984. For that reason, the Garrett County Roads Department can not maintain or provide services for the private road. When Mr. Ted Raynovich and the property owners adjoining the private road bring it to Garrett County Road Department standards and execute a good and sufficient deed for the road the board will then consider accepting the same."

This letter tells the whole truth and story, and is made even stonger by petitioner's deed, in Brief Appendix D at 13a, Mr. Gindlesberger's Appendix L at32a, Marynowski's Appendix M at 33a.

Which describes the ten foot right-of-way petitioner had to bargain for so the lot could be sold to Mr. Alva C. Lewis in 1960 Copy of which is in petitioner's brief as Appendix N at 34a.

OPPOSITION BRIEF Page 2.: "upon hearing of the various motions, the trial court granted the motion to dismiss with leave to file an amended complaint." This is far fetched and malicious mistatement, hearing was brought about by the petitioner's Motion for Hearing on All Counts 3/3/86. At this hearing Judge Thayer told petitioner, that he would not act on the Petition For Writ of Mandamus, and at his direction petitioner was to file "REQUEST FOR MANDATORY INJUNCTION" and Mr. Stover would explain it all to petitioner. Which Mr. Stover did give petitioner a complete course in Law in respect to "MANDATORY INJUNCTION" in about 15 minutes, that this was the way this Court took care of these matters, and this way petiti-

tioner could be given something for all the trouble over the years, petitioner now knows that this was their set up to shear the sheep, for at that time, petitioner never heard of "MANDATORY INJUNCTION" and today still don't know much about it, but did as was told in the Judges Court, April 9-1986.

Page -3-"Theodore Raynovich withdrew his demand for punitive damages." Petitioner's teacher didn't explain this till it was filed, then Mr. Stover explained these facts and the punitive damage were withdrawn as petitioner still did not realize the patsy game they were playing, even told me it wasn't necessary to bother with a jury, and petitioner obeyed, and withdrew the jury request, feeling that the Courts have their ways and the scales will be balanced and fair, and all will be settled.

"The Glen Cove Road, formerly the John Luke Road," Since 1952 this road was known as

Glen Cove Road, only when Robert Glen Stuck a politically affluent person started to call this Road The John Luke Road, John Luke never owned this Road, had nothing to do with it, as Stuck had services hooked up he gave the people the name of John Luke Rd. When petitioner learned of this he went to the County Office and had the Road changed back to Glen Cove Road, Mr. R. G. Stuck still, in the phone directory uses his address listing as JOHNNY LUKE ROAD, the only one using that listing in the area. Page -4- "Beckman County Road." There was never in the history of the world, ever a road as described going to Beckman County Road. In modern times, Beckman deed Appendix Q at 39a in petitioner's brief, shows the wire fence 952' in 1932, the same wire fence line in petitioner's deed in 1953. And if there ever was a road as the respondents now claim, petitioner could have

sold lot to Mr. Lewis without getting the ten foot right-of-way from Mr. Marynowski.

"In response to a petition by most of the property owners living along the road,"

There never was a petition, this is False

This case is primarily a Constitutional Question, which petitioner has brought up in every pleading, at the "Trial" in the Appeals, and the Respondents have never answered these questions, they don't deny that there is a conspiracy. "Petitioner sold lots on both sides of Glen Cove Road to Arthur E. Naylor and his family." TRUTH: Petitioner sold property to Naylor on one side only. Property owners along the Glen Cove Road use the road as their Deeded Access rights. No prescription can be claimed, and there absolutely never was a petition of any kind whatsoever, for anyone to say that there was, is false.

For the sake of an argument,

were there a petition, it would be illegal and contrary to Annotated Code of Maryland Art. 25 Section 135 et seq. petitioner's brief at page 27a.

Page -5- The Glen Cove Road was never an existing road that terminated at the Beckman County Road, as is positively by appendix J at 30a, county sign "NO OUTLET", appendix K at 31a, Gindlesberger's affidavit, appendix L at 32a, Gindlesberger's deed appendix M at 33a, Marynowski's deed, appendix N at 34a, Lewis's deed, in petitioner's brief. This road was known as Glen Cove Road since 1952, petitioner had name returned to Glen Cove Road. "Raynovich admitted the county has maintained the road since the early 1960s." This is the problem how does a private citizen stop the Government from repeated tresspassing, over a road that must stay open for the deeded access, from the first day that the County entered

upon petitioner's property, petitioner has continuously protested this Illegal UnConstitutional conduct to Deaf Ears. There is no way that a private citizen can stop the large government trucks from going where ever they wish to go, this by the Respondents constituted "ACCEPTANCE"and "ADMITTANCE" By the Respondents version of acceptance, leaves the victimized private citizen to protest as they do in Beirut-- bombs & machine guns -- or else you accept our services whether you want them or not, this is not the way we are supposed to live, we were blessed with a Constitution, that makes us a little diferent, and a little better, and all Public Officials Swear to uphold, and Defend The Constitution, not to trample it and the private citizen who is in the way of their co-conspirators, as is the case that is now here before this Court of last resource for the petitioner.

ARGUMENT The Respondents' Argument is more repitition of the same distorted, out of context, mistatements, since they have no Legal stance for defense they keep repeating their false statements, and petitioner must clear them up, which should not be needed as their gobly-gook is a misuse and abuse, and very expensive on the taxpayer as the corrupt conspirators use tax monies to defend themselves in courts against the victimized private citizens. Whereas if they worked within the laws, these cases would not be. Page -9- "The County was petitioned by most of the property owners--" TRUTH: There never was any petition. "However the road continues from the eastern boundary of the Stuck property to the Beckman County Road." TRUTH: Never was, as proven above. Page-10- "The County, as a member of the public, has a right to use the road----" TRUTH: The public has no

right to use this private road, and the County has no right to use this road, this cul de sac road is for deeded access there is no reason for General Public to use this private road, for it cannot serve any usefull purpose to the General Public, and was never used as such. "THOROUGHFARE" it's ten feet wide and dead end, only conspirators could call this a thoroughfare. More repitition: " The Petitioner has for a period in excess of twenty years, accepted the maintenance and benefits from the county of the acceptance of the road into its system and it is too late to complain on this section of the road." TRUTH: Petitioner's continuous complaints seem to constitute "ACCEPTANCE" since there was no bombing or machine gunning, the many meetings of protests seem to be procedures of acceptance in the eyes of corrupt officials. " Prescription for more than twenty years-" TRUTH: There

is no prescription on deeded access road.

Page-11- Members of the general public have never used this road, it is of no use to the general public. " The treatise Outlines of Real Property by Tiffany, Section 317, P. 378, states: "A highway may be created ... by prescription, that is, user of the land by the public for highway purposes for the prescriptive period."" TRUTH: Prescription cannot apply to DEEDED ACCESS.

Page -12- "---unless it appears to have been by permission." DEEDED ACCESS is permission. More repeat this time word for word from page -4- " Petitioner sold lots on both sides of Glen Cove Road to Arthur E. Naylor and his family." TRUTH: one side.

Page-13-(top) "--to various individuals as access to the Glendale County Road."

TRUTH: It was DEEDED ACCESS to the Glendale County Road. (center of page) "--it could not become public by prescription unless its termini were public places." "

All documents, affidavits, deeds, county sign, and surveys show this as a cul de sac and never had public termini. There never was any reason for the general public to

use this road that goes to nowhere. Page -14-"Section 2-114(a) of the Real Property Article of the Annotated Code of Maryland provides:" QUOTE TAKEN OUT OF CONTEXT:

This is the part Respondents slyly left out: except that to the extent the testator donor, or grantor owns other land on the opposite side of the street or highway, the deed, will, or other instrument passes the right title, and interest of the testator, donor, or grantor, only to the center of that portion of the street or highway on which the two or more tracts coextensively bind. Petitioner owns property on <u>both</u> sides of Glen Cove Road.(Bottom of page): " The owners of the lots have used the Glen Cove Road as access from their homes to the Glendale County Road. It is fundamentally unfair for the Petitioner to now attempt to deny his grantees and other property owners the benefit of County maintenance and County snow removal during the harsh winter months." TRUTH: These owners have DEEDED ACCESS, these rights are not, nor can they be questioned, by anyone. As for snow removal during the harsh winter months, it is fundamentally unfair for the Respondents to remove snow from power brokers property,

and push this snow into the roadway blocking the road completely shut for other families, this being their benefits from the respondents Constitutional violations, in exchange for their taxes. Petitioner and Mr. Gindlesberger have met with County Commissioners, County Engineers on many occasions, in the hope that this conspiracy would stop and in its place a legal and just procedure that would be fair to all taxpayers, As Mr. Stover's letter of February 22, 1984 Appendix E at 20a Petitioner's brief, this letter is honest and states the legal procedure that should be followed, petitioner and other property owners agree 100% with that letter, if respondents complied with this letter, there would been no need of this expensive, long drawn-out litigation, where responents use the full force, power, and wealth of Government to try to beat down a citizen who believes that The Constitution

provides protection from the taking of property without due process of Law. Bottom p.-15- and top of p.-15- "--by prescription." No prescription on Deeded Access. "The Petitioner admitted County maintenance-" protests,complaints, and meetings seem to proof of admittance and acceptance, to the respondents. "-property which he does not now own to the detriment-" TRUTH: Petitioner does now still own the property of said road, and property on both sides of Glen Cove Road.--Another planned error, by Respondents. Abiding by the U. S. Constitution should not be a detriment to anybody. No General Public ever used Glen Cove Road. General Public had no reason to want to use this road -- no value to General Public, cul de sac private road is for the use of adjoining property owners only, their Deeds and petitioner's show use of private road by

adjoining property owners. Not for General Public, and the County Roads Department, being part of the General Public, was trespassing. There is no Law, or Statute, on any books anywhere, that grants the "Right of Prescription" on any Road that provides easement by permission, and Deeded Access is solid easement making Prescription impossible.

At the "Trial" of October 1, 1986 IN THE CIRCUIT COURT FOR GARRETT COUNTY, MARYLAND HONORABLE FRED A. THAYER, Chief Judge (and a licensed real estate broker). Mr. George F. Stuck, a surprise witness, stated under oath: " And when I bought my property there was a chain across the west end of the property that Walter and his brother had used to keep anybody from going over in the other property." This was then, and is now the end of the Glen Cove Road, from that point, which is Mr. Stuck's western boundary line, plaintiff built narrow

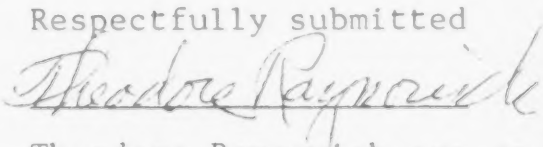
drive-ways for his personal needs and for people to whom petitioner sold lots to and with each lot sold, Deeded Access was part of each sale. There is no Legal reason for County Trucks to trespass over any part of Glen Cove Road or any drive-ways leading from it. OPPOSITION BRIEF, Appendix page-9a "The petition itself was not produced, but there was evidence to the effect that the county accepted the dedication." TRUTH: There never was a "petition" to produce, "accepted the dedication" Antieau's Local Government Law, Volume 4 Section 37.06 wherein it states: "Two things are necessary to constitute a valid common law dedication, namely, first, an intention on the part of the owner unequivocally to devote his land, or an easement in it, to a public use, followed by some act or acts clearly and unmistakably evidencing such intention; and second, an acceptance of the offer by the county."

Seemingly respondents dedicate without the owner knowing that a conspiracy dedicated his property.

CONCLUSION

For reasons stated herein and previously, petitioner prays that his petition for a writ of certiorari should be granted.

Respectfully submitted



Theodore Raynovich pro se
R.F.D. 1 Box 227
Oakland, Maryland 21550

(301) 334-3434

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ___ day September, 1987, I mailed three true and exact copies of the foregoing Petitioner's Reply Brief, by U. S. Mail, first class, postage, prepaid, to Mr. W. Dwight Stover Esquire, at 3 South Second Street, Oakland, Maryland 21550.

Theodore Raymovich, pro se
R.F.D. 1 Box 227
Oakland, Maryland 21550

(301) 334-3434

CAROLYN S. BEEMAN
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires July 1990